

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EDWARD BANKS,

Plaintiff,

- against -

MCGLYNN, HAYS & CO., INC., et al.,

Defendants.  
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**USDC SDNY**  
**DOCUMENT**  
**ELECTRONICALLY FILED**  
**DOC #:** \_\_\_\_\_  
**DATE FILED:** 3/17/2021

21-CV-679 (JPO) (RWL)

**ORDER OF SERVICE**

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

Because Plaintiff has been granted permission to proceed *in forma pauperis*, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). To allow Plaintiff to effect service on Defendants through the U.S. Marshals Service, the Clerk of Court is instructed to send Plaintiff one U.S. Marshals Service Process Receipt and Return form (“USM-285 form”). Within 30 days of the date of this order, Plaintiff must complete a USM-285 form for Defendants and return that form to the Court.

If Plaintiff does not wish to use the Marshals Service to effect service, he must notify the Court in writing within 30 days of the date of this order and request that a summons be issued directly to him. If within 30 days, Plaintiff has not returned the

USM-285 form or requested a summons, under Rule 41(b) of the Federal Rules of Civil Procedure, the Court may dismiss this action for failure to prosecute.

Upon receipt of the completed USM-285 form, the Clerk of Court shall issue a summons and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon Defendants.

No matter what method of service Plaintiff chooses, he must affect service within 120 days of the date the summons is issued. It is Plaintiff's responsibility to inquire of the Marshals Service as to whether service has been made and if necessary, to request an extension of time for service. See *Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012). If within 120 days of issuance of the summons, Plaintiff has not made service or requested an extension of time in which to do so, under Rules 4(m) and 41(b) of the Federal Rules of Civil Procedure, the Court may dismiss this action for failure to prosecute. Finally, it is Plaintiff's obligation to promptly submit a written notification to the Court if Plaintiff's address changes, and the Court may dismiss the action if Plaintiff fails to do so.

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.



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ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: March 17, 2021  
New York, New York